

REMARKS

Applicants submit this Reply in response to the non-final Office Action mailed on January 23, 2009. Prior to this Amendment, claims 35-68 were pending in this application, of which claims 35 and 53 are independent. By this response, Applicants have amended claims 35, 42, 43, and 53, and added new claims 69-95. Thus, claims 35-95 are submitted for examination. No new matter has been added.

In the Office Action, the Examiner rejected claims 35-53 under 35 U.S.C. § 103(a) as being unpatentable over Japanese Pat. Pub. No. 53080602 ("Fukuda") in view of Japanese Pat. Pub. No. 2249707 ("Ohashi"); and rejected claims 53-68 under § 103(a) as being unpatentable over Fukuda in view of Ohashi and further in view of U.S. Pat. No. 6,635,132 ("Caretta").

Applicants respectfully traverse all pending rejections for at least the reasons discussed below.

Rejections Under 35 U.S.C. § 103(a)

Applying 35 U.S.C. § 103(a), the Examiner rejected claims 35-53 as being unpatentable over Fukuda in view of Ohashi and rejected claims 53-68 as being unpatentable over Fukuda in view of Ohashi and further in view of Caretta. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2142, 8th Ed., Rev. 5 (August 2006). Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art

elements in the manner claimed.” USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2.

A *prima facie* case of obviousness has not been established because, among other things, none of Fukuda, Ohashi, or Caretta, alone or in any combination, teaches or suggests every feature of Applicants’ claims. Specifically, none of the references cited by the Examiner teaches or suggests “wherein the modulus of elasticity under compression at 23°C of said first elastomeric material is about 20 to about 80 MPa,” as recited in independent claim 35. Similar features are recited in independent claim 53.

In this regard, it noted that as far as the values of the modulus of elasticity are concerned, Fukuda and Ohashi not only fail to disclose values of this parameter which are comparable with the claimed ones (which are measured as disclosed at page 3, lines 15-22 of Applicants’ specification), but also teach away from Applicants’ claims and lead a person skilled in the art away from the present invention.

Ohashi, in fact, expressly teaches against values of the dynamic modulus of elasticity of the rubber composition of the peripheral portion of the blocks or ribs formed in the tread band exceeding 190 kgf/cm² if resistance to irregular abrasion is to be improved. Ohashi, specifically teaches at page 3, lines 23-25 of its English translation (attached herewith) that if the aforementioned dynamic modulus of elasticity “exceeds 190 kgf/cm², it is inappropriate from the aspect of heat generation, ageing (cracks) or cut resistance.”

Thus, on the basis of Ohashi, one of ordinary skill in the art at the time of the present invention would have been led away from the combination of features defined in independent claims 35 and 53 which require a value of the modulus of elasticity under

compression which is higher than the maximum tolerable value taught by Ohashi to achieve useful results.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of amended independent claims 35 and 53 under 35 U.S.C. § 103(a) as being unpatentable over Fukuda in view of Ohashi or Caretta.

Moreover, claims 36-52 and 54-70 depend from one of independent claims 35 and 53, and, thus, contain all the elements and recitations thereof. As a result, dependent claims 36-52 and 54-70 are allowable at least due to their corresponding dependence from independent claims 35 and 53.

Further, with regards to new claims 71-95, of which claims 71 and 85 are independent, in addition to the arguments presented above with respect to the recitation of “wherein the modulus of elasticity under compression at 23°C of said first elastomeric material is about 20 to about 80 MPa,” independent claim 71 also recites, “an underlayer interposed between the tread band and the belt structure suitable for providing global rigidity to the tread, the underlayer being integral with the first sector and comprised substantially of the first elastomeric material.” Independent claim 85 recites similar features. Support for these new claims can be found at least at page 6, lines 3-17, page 11, lines 16-24, and Figures 1, 2, and 2a.

In the Office Action, the Examiner cites no reference disclosing “an underlayer being integral with the first sector and comprised substantially of the first elastomeric material,” but asserts that “tread/cap and similar multi-layered tread designs are commonly formed with a wide variety of arrangements, including ones in which a ground contacting rubber is connected within the tire to define an underlayer.”

However, no reference cited in the Office Action discloses an underlayer having some modulus of elasticity "suitable for providing global rigidity to the tread." Applicants' specification states:

Within the framework of this embodiment of the invention, this layer may be substantially consisting of the first elastomeric material.

In this way, the first sectors form a single body with this radially inner layer from which they extend along a radially outer direction. Advantageously, this preferred embodiment allows to compensate the modulus of elasticity of the second elastomeric material with an underlayer having a modulus of elasticity greater than that of the second elastomeric material (the one mainly in contact with the road surface), achieving a global rigidity of the tread both along the longitudinal and the transversal directions adapted to optimize the performance of the tire such as the driving behavior.

An underlayer, integral with the first sectors, comprised substantially of an elastomeric material having a modulus of elasticity greater than that of the second sectors appears to be completely absent from the references cited by the Examiner. Thus, no reference cited in the Office Action teaches or suggests "an underlayer interposed between the tread band and the belt structure suitable for providing global rigidity to the tread, the underlayer being integral with the first sector and comprised substantially of the first elastomeric material."

Accordingly, Applicants respectfully request the Examiner allow new independent claims 71 and 85, as well as new dependent claims 72-84 and 86-95, which depend from independent claims 71 and 85 respectively, and, thus, contain all the elements and recitations thereof.

Claim Scope

It is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and or shown in the drawings. Rather, Applicants believe that they are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned attorney at (404) 653-6435.

Applicants respectfully submit that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

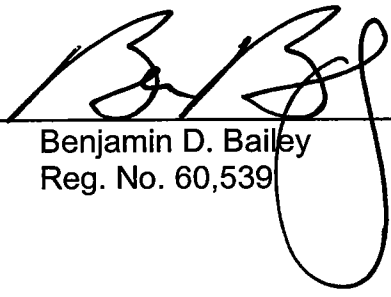
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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Dated: June 30, 2009

By: _____


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